

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-02-AT-243
	)	
Lighthouse Broadcasting	)	NAL/Acct. No.200232480014
Licensee of WBIC(AM) in Royston, Georgia	)	
Canon, Georgia	)	FRN 0007-3941-09
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** July 30, 2002

By the Enforcement Bureau, Atlanta Office:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Lighthouse Broadcasting, licensee of radio station WBIC(AM), Royston, Georgia, apparently liable for a forfeiture in the amount of twelve thousand dollars (\$12,000) for willful and repeated violation of Sections 11.35(a) and 73.1745 of the Commission's Rules (“Rules”).<sup>1</sup> Specifically, we find Lighthouse Broadcasting apparently liable for failing to maintain operational Emergency Alert System (“EAS”) equipment and operating with excessive power during post sunset hours and then failing to discontinue operation at night.

**II. BACKGROUND**

2. On June 18, 2002, an agent of the FCC Enforcement Bureau’s Atlanta Field Office (“Atlanta Office”) monitored WBIC(AM)’s signal from before sunset, through sundown, and into the nighttime hours until 11 p.m. Eastern Daylight Savings Time (“EDT”) when the station discontinued operation. The agent conducted field strength measurements of the station’s signal during this time period and determined that WBIC(AM) failed to reduce power in accordance with its post sunset authority and failed to discontinue operation at 10:45 p.m. EDT in accordance with its station authorization.<sup>2</sup>

3. On June 19, 2002, the agent monitored WBIC(AM)’s signal and conducted field strength measurements and determined that the station again failed to reduce power according to its post sunset authority and discontinue operation at 10:45 p.m. EDT. The agent noted that, although the station signed off the air at 11:23 p.m. EDT, the station continued to transmit an unmodulated carrier until at least midnight.

4. On June 20, 2002, the agent inspected WBIC(AM)’s EAS system. The inspection was

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<sup>1</sup> 47 C.F.R. §§ 11.35(a) and 73.1745.

<sup>2</sup> WBIC(AM) is a daytime-only station, licensed to operate at 230 watts. The station has post sunset authority in the month of June of 3.5 watts from 8:45 to 9:45 p.m. EDT and then 1.8 watts from 9:45-10:45 p.m. EDT. The station has no authority to operate beyond 10:45 p.m. EDT.

conducted with Louis Hawkins, general manager. At the inspection, the EAS encoder/decoder unit was turned on, but station staff could not demonstrate equipment operation. Mr. Hawkins provided invoices indicating that a new EAS power supply was ordered on May 9, 2002, and installed on May 16, 2002, but there was no evidence that any tests or alerts had been received or sent since that date. There were no logs or other evidence to indicate that the unit had ever been in operation and no log entries indicating that the unit was taken out of service. The agent also found that the unit appeared to be incapable of receiving two EAS sources. Furthermore, the engineer indicated in the May 16, 2002, invoice for installation of the power supply, that reception was “very poor on the two monitored stations” and that “better receivers and an outside antenna” should be installed.

5. On July 8, 2002, the Atlanta Office received a copy of a report dated July 5, 2002, written by WBIC’s contract engineer. The report indicated that two new FM receivers were installed, but that there was still an apparent problem with the EAS encoder/decoder and that it was being taken out of service for further trouble shooting or repair.

6. On July 9, 2002, the agent interviewed by telephone WBIC’s owner, Mr. Joseph Hood of Lighthouse Broadcasting. Mr. Hood admitted that the EAS unit had been broken several months prior to when Mr. Hawkins, the new general manager, had started employment at the station in May, 2002, but Mr. Hood said that he could not afford to have the unit repaired. He did not have any logs or other evidence to indicate that the unit had ever been operational or that the EAS equipment had been taken out of service for repair.

### **III. DISCUSSION**

7. Section 11.35(a) of the Rules requires that broadcast stations maintain operational EAS encoders, decoders and attention signal generating equipment and receiving equipment so that monitoring and transmitting functions are available during times the stations are in operation. On June 20, 2002, WBIC(AM)’s EAS unit was not functional. Although there had been recent attempts at repairing the EAS unit prior to the inspection, there was no evidence or logs that the unit had been functional at any time, nor were there log entries indicating the equipment was under repair.<sup>3</sup> The station owner admitted that the EAS equipment had been non-operational since at least prior to May, 2002.

8. Section 73.1745 of the Rules states that “[n]o broadcast station shall operate at times, or with modes or power, other than those specified and made a part of the license, unless otherwise provided in this part.” WBIC(AM)’s license authorizes daytime-only operation and the station must either discontinue operation at sunset or reduce power to the minimal levels specified in its post sunset authority at the times indicated. WBIC(AM) has no nighttime authority and is not permitted to operate past the two hours indicated in its post sunset authority. On June 18, 2002 and June 19, 2002, WBIC(AM) failed to reduce power to the levels indicated in its post sunset authority, remaining on daytime power throughout this time period. Furthermore, WBIC failed to discontinue operation after the post sunset authority time-period and continued to operate on the first night for at least 15 minutes, and on the second night for at least 1 hour and 15 minutes, past the time to discontinue operation.

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<sup>3</sup> See 47 C.F.R. §§ 11.35(a)-(b).

9. Based on the evidence before us, we find Lighthouse Broadcasting willfully<sup>4</sup> and repeatedly<sup>5</sup> violated Sections 11.35(a) and 73.1745 of the Rules by failing to maintain operational EAS equipment and failing to reduce power at sunset and then discontinue operation after the post sunset authority hours.

10. Pursuant to Section 1.80(b)(4) of the Rules,<sup>6</sup> the base forfeiture amount for failure to maintain operational EAS equipment is \$8,000, and for operation with excessive power during post sunset hours and failure to discontinue operation after post sunset hours is \$4,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>7</sup> Considering the entire record and applying the factors listed above, this case warrants a \$12,000 forfeiture.

#### IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>8</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>9</sup> Lighthouse Broadcasting is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twelve thousand dollars (\$12,000) for willful and repeated violation of Sections 11.35(a) and 73.1745 of the Rules by failing to maintain operational EAS equipment and operating with excessive power during the post sunset authority hours and then failing to discontinue operation.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Lighthouse Broadcasting SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th

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<sup>4</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . .” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>5</sup> The term “repeated,” when used with reference to the commission or omission of any act, “means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

<sup>6</sup> 47 C.F.R. § 1.80(b)(4).

<sup>7</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>8</sup> 47 U.S.C. § 503(b).

<sup>9</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

Street, S.W., Washington, D.C. 20554.<sup>10</sup>

14. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Lighthouse Broadcasting, 2735 Bryant Park Road, Canon, GA 30520.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce  
Atlanta Office, Enforcement Bureau

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<sup>10</sup> See 47 C.F.R. § 1.1914.